MSS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 624 OF 2007

I. S. CONSTRUCTION CO. .. PETITIONERS

Vs.

STATE OF MAHARASHTRA & ORS. .. RESPONDENTS

Mr. V. A. Sugdare for petitioners

Ms. Geeta Shastri AGP for R-1-5

Mr. P. P. Tendulkar for R-6

Ms. A. K. Savla, BMC

CORAM: **SMT. RANJANA DESAI &**
DR. D.Y. CHANDRACHUD, JJ.

DATE: OCTOBER 1, 2007.

P.C.

. In this petition, the petitioner has made the following prayer:

. "(a) that by Writ of Mandamus and/or Writ in the nature of Mandamus or any such appropriate Writ, this Honourable Court may be pleased to call for records and proceedings from the Respondents No.2's office in respect of tender documents for the "works at Worli Sea Face and after perusal of the

said records and proceedings and after examining its legality, validity of the decision of the Respondents No. 2, the same may be kindly be ordered to be quashed and set aside as regards the cancellation of Envelope No. 1 of the Petitioners and the Petitioners Envelope No. 1 maybe opened along with the Envelope No. 2 and the same may be evaluated with the bid of Respondents No. 6".

2. Affidavit-in-reply is filed by Ramchandra K. Wadhwani, Harbour Engineer, Harbour Engineering Division (N) on behalf of respondents 1 to 4. Paragraph 5 wrongly typed as paragraph 4 of the affidavit reads as under:

. "4. The petitioner herein submitted the Envelope No. 1 on 12.2.2007 and the Respondent No. 6 submitted the Envelope No. 1 on 12.2.2007. The said Envelope No. 1 was opened on 13.2.2007 and while scrutinising the document, the respondent No. 2 found that the petitioner was not satisfying 2 of the POST QUALIFICATION CRITERIA, which are as under:

(i) Experience of having carried out item of "Providing and laying trap stones weighing 100 to

100 Kg", which was mandatory as per para 3.3.18.1(c)(i) of the detailed tender notice of the tender.

(ii) The petitioner did not submit proof, in the form of work done certificate, for work done shown in Sr. No.5 of FORM 1 which was mandatory as per para 3.3.10 (Page 10) of the detailed tender notice of the tender. Hence the BID CAPACITY of the petitioner was less than the Total estimated value of the work. As per para 3.3.18.2 (Page 13) of the detailed tender notice of the tender, the BID CAPACITY should be more than the Total estimated value of the work".

. Paragraph 6 of the affidavit reads as under:

. "6. I say that as the petitioner did not satisfy the above two qualification requirements, their financial bid in Envelope No. 2 was not opened on 13/2/2007 and the following note was made on Envelope No. 2 by the respondent:

. "On scrutiny of the documents submitted by the agency, the following Post Qualification Criteria is not met by the agency.

. (1) No work done certificate in proof of work shown in Sr. No. 5 of Form 1.

. (2) Bid capacity (as per revised calculation) is Rs.285.91 lakh, which is less than the Estimated value of the work (Para 3.3.18.2 of the detailed tender notice).

. (3) Has not submitted certificate of having executed the item of ’Providing and laying trap stones weighing 100 to 1000 Kg.’

. Hence Envelope No. 2 is not opened."

3. There is no rejoinder filed by the petitioners. In view of the above quoted averments made in the affidavit, the petition cannot be entertained. Petition is dismissed.

JUDGE.

JUDGE.